

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance REGulation**

In the matter of

XXXXX

Petitioner

File No. 87687-001

v

HealthPlus Insurance Company  
Respondent

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Issued and entered  
This 21<sup>st</sup> day of April 2008  
by Ken Ross  
Commissioner

**ORDER**

**I**

**PROCEDURAL BACKGROUND**

On February 7, 2008, XXXXX, authorized representative of XXXXX (Petitioner), filed a request for an external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* On February 7, 2008, after a preliminary review of the material submitted, the Commissioner accepted the request.

This case required review by a medical professional. Therefore, the Commissioner assigned it to an independent review organization which sent its recommendation to the Commissioner on February 22, 2008.

**II**

**FACTUAL BACKGROUND**

The Petitioner is covered under a group policy underwritten by HealthPlus Insurance Company (HealthPlus). Her health care benefits are defined in the HealthPlus PPO certificate of coverage (the certificate).

On December 18, 2007, the Petitioner was transported by air ambulance from Flint, Michigan, to Houston, Texas, for treatment at the XXXXX. The flight was provided by Aero Medical

Transportation (Medway Air Ambulance) and the charge was \$13,900.00. HealthPlus denied coverage for the service.

The Petitioner appealed the denial through HealthPlus's internal grievance process. HealthPlus maintained its denial and issued a final adverse determination letter dated February 1, 2008.

### **III ISSUE**

Was HealthPlus correct in denying coverage for the air ambulance charge?

### **IV ANALYSIS**

#### **Petitioner's Argument**

When the Petitioner's colon cancer metastasized to her brain and lungs, her physician recommended evaluation and treatment at the XXXXX in Texas.<sup>1</sup> It is the Petitioner's position that transport by air ambulance was necessary because her condition did not permit a long trip by surface transportation. The Petitioner further argued that she could not travel by commercial air transport because she is susceptible to infection and needed multiple dressing changes.

The Petitioner's physician, XXXXX, DO, supported her use of the air ambulance, saying that a commercial flight was not practicable because she had lost control of her bowel and bladder and would be vulnerable to viral infections.

The Petitioner wants HealthPlus to cover the cost of the air ambulance service.

#### **Respondent's Argument**

In its final adverse determination, HealthPlus defended its decision to deny coverage for the air ambulance by saying that the Petitioner did not meet its criteria as outlined in its benefit interpretation guideline for coverage of ambulance service to establish that transportation by air ambulance was medically necessary. HealthPlus also says that the certificate contains this applicable exclusion (page 28):

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1. Although there are indications in the record that HealthPlus also disputes coverage for the treatment at the XXXXX, the

### 9.3 EXCLUSIONS FROM COVERAGE

Coverage for services and products not specifically identified by this Certificate or any applicable Rider are not Covered Services (even if Medically Necessary) including, but not limited to:

\* \* \*

- W. Charges for transportation and/or lodging that may be required to receive Covered Services.

#### Commissioner's Review

In determining whether HealthPlus's denial should be upheld or reversed, the Commissioner looks first to the terms of the Petitioner's certificate. The certificate, in Section VIII, Schedule of Covered Services, has this provision regarding covered ambulance services (page 17):

### 8.3 EMERGENCY HEALTH SERVICES

\* \* \*

- D. Ambulance services (air or ground), not including Ambulance services from a hospital to a Member's home, when Medically Necessary. No Coverage if a Member receives treatment by Ambulance personnel but is not transported to a hospital. Prior Authorization is required for Ambulance transfers between facilities. All other non-emergency Ambulance transportation is not covered. [Underlining in original]

This section establishes that ambulance transportation must be medically necessary and that non-emergency ambulance transportation is not covered. The certificate defines "medically necessary" this way (Section 2.45 of the certificate, page 4-5):

"Medically Necessary" (or "Medical Necessity") means services or supplies provided to Members that are determined by [HealthPlus] or its designee to be medically required and appropriate to diagnose or treat a Member's physical or mental condition. Also, such services or supplies must: (1) meet widely accepted criteria and professionally recognized standards of health care; (2) not be used primarily for the comfort or convenience of the Member, the Member's family or caregiver, or the Member's treating Physician; (3) not be excessive in cost as compared to alternative services or supplies effective for the diagnosis or treatment of the Member's physical or mental condition; and (4) not be provided to the Member as an outpatient when the services or supplies could be safely and appropriately provided to the Member on an outpatient basis.

The certificate (Section 2.23, page 3) defines "emergency health service" as

Medically Necessary services rendered by Providers for the sudden onset of a medical condition that manifests itself by signs and symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to the individual's health...; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part.

Finally, HealthPlus's benefit interpretation guideline for coverage of ambulance service provides further specific criteria for the use of air ambulance transportation:

**D. Air Ambulance Transportation**, either a helicopter or fixed wing aircraft, is covered when all of the following criteria are met:

1. When it would take a land ambulance 30-60 minutes or more to transport an "emergency" patient, **and**
2. The member's medical condition requires immediate and rapid transport that cannot be provided by either basic or advanced life support land ambulance, **and**
3. Either the point of pickup is not accessible by land vehicle, or great distances or other obstacles are involved in transporting the member to the nearest appropriate facility, and
4. The member is being transferred only to the nearest appropriate acute care hospital with appropriate facilities for treatment.

Examples of emergency situations for which air ambulances may be justified include, but are not limited to, the following:

- a. Intracranial bleeding,
- b. Cardiogenic shock,
- c. Burns requiring treatment in a Burn Center,
- d. Condition requiring treatment in a hyperbaric oxygen unit,
- e. Multiple severe injuries, or
- f. Life-threatening trauma.

Based on the provisions quoted above, the Commissioner could conclude that the Petitioner's air ambulance service was not covered because it was not an emergency service as defined in the certificate and she was not being transported to the nearest acute care hospital. However, since this appeal involves a question of medical necessity, the Commissioner also obtained an analysis and recommendation from an independent review organization (IRO) as required by section 11(6) of PRIRA.

The IRO reviewer for this case is a physician in active practice who is board certified in internal medicine. The IRO expert reviewed the documentation submitted by the Petition, the providers, and HealthPlus. The IRO report said:

In the opinion of the [IRO expert], the air ambulance transport provided to [the Petitioner] on December 18, 2007 was not medically necessary. From the records, the Patient was not unstable and did not need immediate care or transport. The [Petitioner] was not transferred to the XXXXX emergently. During transfer, vital signs were stable. No medication or intravenous fluids or other medical treatment [was] during the flight. In addition, the [IRO expert] noted that the patient was not transported to an acute care facility.

The certificate excludes non-emergency ambulance transportation and the IRO expert said the Petitioner “was not transferred to the XXXXX emergently.” The Commissioner is not required in all instances to accept the IRO expert’s conclusions. However, the IRO report is afforded deference by the Commissioner. It is based on extensive expertise and professional judgment and the Commissioner can discern no reason why the recommendation should be rejected in this case.

The Commissioner accepts the conclusion of the IRO expert that the air ambulance transport was not medically necessary or for an emergency and therefore finds that it is excluded under the terms and conditions of the Petitioner’s certificate.

## **V ORDER**

The Commissioner upholds HealthPlus’s February 1, 2008, final adverse determination. HealthPlus is not responsible for coverage of the Petitioner’s air ambulance transport on December 18, 2007.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham

County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.